

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DERRIK MICHAEL BLANTON,
Plaintiff,
v.
D.O.J., et al.,
Defendants.

No. 2:23-cv-2987 DAD DB P

FINDINDGS AND RECOMMENDATIONS

Plaintiff, a state prisoner proceeding pro se, filed this civil rights action under 42 U.S.C. §1983. Before the court is plaintiff's second amended complaint for screening. For the reasons set forth below, this court finds plaintiff again fails to state any claims for relief cognizable under §1983. This court further finds that most of plaintiff's wide-ranging and unfocused allegations are patently incredible and the others are conclusory assertions of harm. For these reasons, this court considers any further opportunities to amend futile and recommends the second amended complaint be dismissed without leave to amend.

BACKGROUND

Plaintiff filed his original complaint on December 21, 2023. (ECF No. 1.) Because plaintiff failed to sign his complaint or his motion to proceed in forma pauperis, this court ordered plaintiff to file signed copies of both. Thereafter, plaintiff filed numerous documents labeled complaints, most of which were unsigned, and numerous incomplete and/or unsigned motions to

1 proceed in forma pauperis. After several orders directing plaintiff to file signed and complete
2 documents, in April 2024 plaintiff filed signed copies of his motion to proceed in forma pauperis
3 and a complaint, which he labeled a first amended complaint. In an order filed April 19, this
4 court granted plaintiff's motion to proceed in forma pauperis, found plaintiff did not state any
5 claims for relief cognizable under §1983, and gave plaintiff leave to file a second amended
6 complaint. (ECF No. 37.)

7 Plaintiff filed three documents labeled "second amended complaint" on April 29, May 10,
8 and May 17. (ECF Nos. 40, 41, 42.) In addition, on May 20, plaintiff filed 46 pages of what are
9 apparently exhibits. (ECF No. 43.) In the prior screening order, this court warned plaintiff about
10 excessive filings and the risk of sanctions. However, plaintiff appears to be unwilling or unable
11 to heed that warning.

12 This court will not review each of plaintiff's "second amended complaints." Because
13 filing an amended complaint supersedes prior complaints, this court will screen plaintiff's last-
14 filed "second amended complaint." Further, this court will not consider the exhibits filed on May
15 20. As plaintiff was informed in the prior screening order, plaintiff's claims must be stated in the
16 body of his complaint. The court is not required to review exhibits to determine whether plaintiff
17 has stated a claim.

18 SCREENING

19 As described in this court's prior screening order, the court is required to screen
20 complaints brought by prisoners to determine whether they sufficiently state claims under 42
21 U.S.C. § 1983. 28 U.S.C. § 1915A(a). The prisoner must plead an arguable legal and factual
22 basis for each claim in order to survive dismissal. Franklin v. Murphy, 745 F.2d 1221, 1227-28
23 (9th Cir. 1984). In addition, the prisoner must demonstrate a link between the actions of each
24 defendant and the deprivation of his rights. Monell v. Dept. of Social Servs., 436 U.S. 658
25 (1978). "A person 'subjects' another to the deprivation of a constitutional right, within the
26 meaning of § 1983, if he does an affirmative act, participates in another's affirmative acts or
27 omits to perform an act which he is legally required to do that causes the deprivation of which
28 complaint is made." Johnson v. Duffy, 588 F.2d 740, 743 (9th Cir. 1978).

1 As he did previously, plaintiff identifies numerous prisons where the conduct he
2 complains of occurred. He lists “CDCR” and “D.O.J. et al.” as defendants. (ECF No. 42 at 1-2.)
3 He adds nine correctional officers employed at Salinas Valley State Prison (“SVSP”) (id. at 3)
4 and numerous other staff members at SVSP, the California Medical Facility, and R.J. Donovan
5 State Prison (id. at 6, 9, 17).

6 Plaintiff makes broad-ranging allegations against mostly unnamed prison staff at
7 unidentified places. The following are just a few of his allegations: threats by “all staff,”
8 including threats to cause plaintiff to overdose, to falsify records to claim plaintiff is
9 schizophrenic and delusional, and to give plaintiff cancer (ECF No. 42 at 4); a beating by five
10 unnamed correctional officers in April 2020 (id. at 5); suppression of evidence (id.); HIPAA
11 violation and surgery without informed consent (id. at 7); four years of psychological and
12 physical torture for Department of Defense weapons testing (id. at 13); beatings by other inmates
13 that were encouraged or ignored (id. at 5, 16); and the provision of false information to obtain an
14 order to have plaintiff involuntarily medicated (id. at 19).

15 For relief, plaintiff states that he wants the false charges against him dropped, the
16 fraudulent mental health records investigated, the torture to stop, and \$139 billion. (ECF No. 42
17 at 20.)

18 “[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level
19 of the irrational or wholly incredible, whether or not there are judicially recognized facts available
20 to contradict them.” Denton v. Hernandez, 504 U.S. 25, 33 (1992). Dismissal is appropriate
21 when the facts alleged are “clearly baseless,” “fanciful,” “fantastic,” and/or “delusional.” Id.
22 Plaintiff’s allegations are largely incredible. He makes a few scattershot allegations of excessive
23 force but backs up those conclusory allegations with no details, despite the court’s specific
24 instructions to do so in the prior screening order. This court finds any further instructions to
25 plaintiff would be futile and finds no reason to permit plaintiff to file another amended complaint.
26 This action should be dismissed for plaintiff’s failure to state a claim.

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1 It is apparent that plaintiff is distressed about many things. This court wants to
2 acknowledge that distress. However, it is also apparent that this civil rights action is not the place
3 to help plaintiff with his distress.

4 For the foregoing reasons, IT IS HEREBY RECOMMENDED that the second amended
5 complaint be dismissed without leave to amend and this case be closed for plaintiff's failure to
6 state a claim.

7 These findings and recommendations will be submitted to the United States District Judge
8 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty-one days
9 after being served with these findings and recommendations, plaintiff may file written objections
10 with the court. The document should be captioned "Objections to Magistrate Judge's Findings
11 and Recommendations." Plaintiff is advised that failure to file objections within the specified
12 time may result in waiver of the right to appeal the district court's order. Martinez v. Ylst, 951
13 F.2d 1153 (9th Cir. 1991).

14 Dated: June 18, 2024

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DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

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